

104TH CONGRESS
2D SESSION

S. 1730

To amend the Oil Pollution Act of 1990 to make the Act more effective in preventing oil pollution in the Nation's waters through enhanced prevention of, and improved response to, oil spills, and to ensure that citizens and communities injured by oil spills are promptly and fully compensated, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 7, 1996

Mr. CHAFEE (for himself, Mr. LIEBERMAN, Mr. LAUTENBERG, and Mr. PELL) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Oil Pollution Act of 1990 to make the Act more effective in preventing oil pollution in the Nation's waters through enhanced prevention of, and improved response to, oil spills, and to ensure that citizens and communities injured by oil spills are promptly and fully compensated, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Oil Spill Prevention and Response Improvement Act”.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
 Sec. 2. Definition of Secretary.

TITLE I—ENHANCEMENT OF OIL SPILL PREVENTION

Sec. 101. Interim oil spill prevention measures for single-hull vessels.
 Sec. 102. Incentive for oil shippers to convert single hull vessels to double hull vessels.
 Sec. 103. Prevention of oil spills by improvement of safety of towing vessels.
 Sec. 104. Other oil prevention enhancement measures.

TITLE II—IMPROVEMENT OF RESPONSES TO OIL SPILLS

Sec. 201. Access to timely short-term financial assistance for persons injured by oil spills.
 Sec. 202. Advance planning and coordination to ensure prompt decisionmaking on reopening and closing of fishing grounds.
 Sec. 203. Qualification of major oil spills as major disasters.
 Sec. 204. Access to oil spill liability trust fund for natural resource damages.
 Sec. 205. Access to necessary information, expertise, and funding to mitigate near-term ecological injury resulting from oil spill.
 Sec. 206. Compliance with response plans.

3 SEC. 2. DEFINITION OF SECRETARY.

In this Act, the term “Secretary” means the Secretary of Transportation, acting through the United States Coast Guard.

7 TITLE I—ENHANCEMENT OF OIL 8 SPILL PREVENTION

9 SEC. 101. INTERIM OIL SPILL PREVENTION MEASURES FOR 10 SINGLE-HULL VESSELS.

(a) EFFECTIVENESS OF PROPOSED RULE.—Section 4115(b) of the Oil Pollution Act of 1990 (46 U.S.C. 3703a note) is amended—

(1) by striking “The Secretary” and inserting the following:

1 “(1) IN GENERAL.—The Secretary”; and

2 (2) by adding at the end the following:

3 “(2) OPERATIONAL ELEMENTS.—If a final rule
4 under this subsection with respect to operational ele-
5 ments does not become effective by the date that is
6 59 months after the date specified in paragraph (1),
7 the proposed rule in the Supplemental Notice of
8 Proposed Rulemaking (60 Fed. Reg. 55,904 (1995))
9 shall be considered to be in effect as a final rule as
10 of that date and shall remain in effect until a final
11 rule becomes effective.

12 “(3) STRUCTURAL ELEMENTS.—If a final rule
13 under this subsection with respect to structural ele-
14 ments does not become effective by the date that is
15 64 months after the date specified in paragraph (1),
16 the proposed rule in the Notice of Proposed Rule-
17 making (58 Fed. Reg. 54,870 (1993)) shall be con-
18 sidered to be in effect as a final rule as of that date
19 and shall remain in effect until a final rule becomes
20 effective.”.

21 (b) PREVENTION MEASURES.—Section 4115(b) of
22 the Oil Pollution Act of 1990 (46 U.S.C. 3703a note), as
23 amended by subsection (a), is amended by adding at the
24 end the following:

25 “(4) PROVISIONS TO BE INCLUDED.—

1 “(A) IN GENERAL.—In issuing rules under
2 this subsection, the Secretary shall include the
3 following provisions to the greatest extent prac-
4 ticable:

5 “(i) A requirement that a single hull
6 barge over 5,000 gross tons operating in
7 open ocean or coastal waters that is af-
8 fected by this section have at least 1 of the
9 following:

10 “(I) A crew member on board
11 and an operable anchor.

12 “(II) An emergency system on
13 board the vessel towing the barge to
14 retrieve the barge if the tow line rup-
15 tures.

16 “(III) Adoption of any other
17 measure that provides comparable
18 protection against grounding of the
19 barge as that provided by a measure
20 described in subclause (I) or (II).

21 “(ii) In cooperation with the captain
22 of the port for each port in which any tank
23 vessel not fitted with a double bottom that
24 covers the entire cargo tank length oper-
25 ates, establishment of a minimum under-

1 keel clearance for the vessel when entering
 2 the port or place of destination and when
 3 departing port.

4 “(B) CONSIDERATIONS.—In issuing rules
 5 under this subsection, the Secretary shall—

6 “(i) require the use of all measures
 7 that advance the objectives of this section,
 8 not only those determined to be the most
 9 cost-effective or most cost-efficient;

10 “(ii) take account of human safety,
 11 including the safety of crew members on
 12 affected tank vessels; and

13 “(iii) consider measures that prevent
 14 collision or grounding of a tank vessel in
 15 addition to those that reduce oil outflow
 16 after such a collision or grounding has oc-
 17 curred.”.

18 **SEC. 102. INCENTIVE FOR OIL SHIPPERS TO CONVERT SIN-**
 19 **GLE HULL VESSELS TO DOUBLE HULL VES-**
 20 **SELS.**

21 Section 1004(c) of the Oil Pollution Act of 1990 (33
 22 U.S.C. 2704(c)) is amended—

23 (1) in paragraph (1) by striking “Subsection
 24 (a)” and inserting “Except as provided in paragraph
 25 (4), subsection (a)”; and

1 (2) by adding at the end the following:

2 “(4) DOUBLE-HULLED VESSELS.—The excep-
3 tion in paragraph (1)(B) shall not apply—

4 “(A) to a tank vessel that, as of the date
5 of enactment of this paragraph, is equipped
6 with a double hull; or

7 “(B) to a double hull vessel that is replac-
8 ing another tank vessel not equipped with a
9 double hull that is being retired at least 5 years
10 prior to the applicable retirement date under
11 section 3703a(c) of title 46, United States
12 Code.”.

13 **SEC. 103. PREVENTION OF OIL SPILLS BY IMPROVEMENT**
14 **OF SAFETY OF TOWING VESSELS.**

15 (a) DEADLINE ON ISSUANCE OF FINAL REGULA-
16 TIONS.—If a final rule on navigation safety equipment for
17 towing vessels does not become effective by September 30,
18 1996, the proposed rule in the Notice of Proposed Rule-
19 making (60 Fed. Reg. 55890 (1995)) shall be considered
20 to be in effect as a final rule as of that date and shall
21 remain in effect until a final rule becomes effective.

22 (b) CONSIDERATION OF FIRE-SUPPRESSION EQUIP-
23 MENT IN TOWING SAFETY RULEMAKING.—In issuing a
24 final rule on Navigation Safety Equipment for Towing
25 Vessels in accordance with subsection (a), the Secretary

1 shall establish a requirement that a towing vessel have a
2 fire-suppression system or other equipment to provide ade-
3 quate assurance that an onboard fire can be suppressed
4 under reasonably foreseeable circumstances.

5 **SEC. 104. OTHER OIL PREVENTION ENHANCEMENT MEAS-**
6 **URES.**

7 (a) REQUIREMENT FOR STUDY OF OIL SPILL
8 RISKS.—

9 (1) IN GENERAL.—The Secretary shall coordi-
10 nate with the Marine Board of the National Re-
11 search Council on a study into how the designation
12 of waters through which tank vessels transport oil,
13 and the designation of shipping lanes for tank ves-
14 sels, affect the risk of an oil spill.

15 (2) RECOMMENDATIONS.—In the study under
16 paragraph (1), the Marine Board of the National
17 Research Council shall recommend to the Secretary
18 any changes to designations of waters that would
19 minimize the risk of oil spills.

20 (b) DREDGING OF RHODE ISLAND WATERWAYS.—
21 The Chief of Engineers of the Army Corps of Engineers,
22 in conjunction with the Secretary and other relevant agen-
23 cies, shall—

1 (1) review the report of the commission con-
 2 vened by the Governor of Rhode Island on dredging
 3 Rhode Island waterways; and

4 (2) not later than 120 days after issuance of
 5 the report, submit to the Committee on Environment
 6 and Public Works of the Senate and the Committee
 7 on Transportation and Infrastructure of the House
 8 of Representatives any recommendations that the
 9 Chief of Engineers may have concerning the feasibil-
 10 ity and environmental effects of the dredging.

11 (c) LIGHTERING OPERATIONS.—The first sentence of
 12 section 3715(b) of title 46, United States Code, is amend-
 13 ed by striking “of this section” and inserting “that include
 14 requirements that the Secretary determines will provide
 15 protection to the environment that is as substantial as is
 16 economically and technologically feasible.”.

17 **TITLE II—IMPROVEMENT OF** 18 **RESPONSES TO OIL SPILLS**

19 **SEC. 201. ACCESS TO TIMELY SHORT-TERM FINANCIAL AS-** 20 **SISTANCE FOR PERSONS INJURED BY OIL** 21 **SPILLS.**

22 (a) DAMAGES FOR LOSS OF PROFITS OR IMPAIR-
 23 MENT OF EARNING CAPACITY.—Section 1002(b)(2)(E) of
 24 the Oil Pollution Act of 1990 (33 U.S.C. 2702(b)(2)(E))
 25 is amended by striking the period at the end and inserting

1 the following: “, in part or in full. Payment or settlement
 2 of a claim for interim, short-term damages representing
 3 less than the full amount of damages to which the claim-
 4 ant ultimately may be entitled under this subparagraph
 5 shall not preclude recovery by the claimant for damages
 6 not reflected in the paid or settled partial claim.”.

7 (b) CLAIMS PROCEDURE.—Section 1013(d) of the Oil
 8 Pollution Act of 1990 (33 U.S.C. 2713(d)) is amended
 9 by inserting after “unavailable” the following: “including
 10 a claim for interim, short-term damages representing less
 11 than the full amount of damages to which the claimant
 12 ultimately may be entitled,”.

13 (c) ADVERTISEMENT.—Section 1014(b) of the Oil
 14 Pollution Act of 1990 (33 U.S.C. 2714(b)) is amended—

15 (1) by striking “If a responsible party” and in-
 16 serting the following:

17 “(1) IN GENERAL.—If a responsible party”;
 18 and

19 (2) by adding at the end the following:

20 “(2) CLAIM FOR INTERIM DAMAGES.—An ad-
 21 vertisement under paragraph (1) shall state that a
 22 claimant may present a claim for interim, short-term
 23 damages representing less than the full amount of
 24 damages to which the claimant ultimately may be
 25 entitled and payment of such a claim shall not pre-

1 clude recovery for damages not reflected in the paid
2 or settled partial claim.”.

3 (d) SUBROGATION.—Section 1015(a) of the Oil Pol-
4 lution Act of 1990 (33 U.S.C. 2715(a)) is amended—

5 (1) by redesignating subsection (b) as sub-
6 section (c); and

7 (2) by inserting after subsection (a) the follow-
8 ing:

9 “(c) INTERIM DAMAGES.—

10 “(1) IN GENERAL.—If a responsible party, a
11 guarantor, or the Fund has made payment to a
12 claimant for interim, short-term damages represent-
13 ing less than the full amount of damages to which
14 the claimant ultimately may be entitled, subrogation
15 under subsection (a) shall apply only with respect to
16 the portion of the claim reflected in the paid interim
17 claim.

18 “(2) FINAL DAMAGES.—Payment of such a
19 claim shall not foreclose claimant’s right to recovery
20 of all damages to which a claimant otherwise is enti-
21 tled under this title or any other law.”.

1 **SEC. 202. ADVANCE PLANNING AND COORDINATION TO EN-**
2 **SURE PROMPT DECISIONMAKING ON RE-**
3 **OPENING AND CLOSING OF FISHING**
4 **GROUND.**

5 (a) NATIONAL GUIDANCE.—Section 311(j)(4)(D) of
6 the Federal Water Pollution Control Act (33 U.S.C.
7 1321(j)(4)(D)) is amended—

8 (1) in clause (i) by striking “and” at the end;

9 (2) in clause (ii) by striking the period and in-
10 serting “; and”; and

11 (3) by adding at the end the following:

12 “(iii) acting through the Under Sec-
13 retary of Commerce for Oceans and At-
14 mosphere and in consultation with the Ad-
15 ministrator, the Director of the United
16 States Fish and Wildlife Service, and other
17 affected agencies, issue guidance for Area
18 Committees to use in developing a frame-
19 work for advanced planning and decision-
20 making with respect to the closing and re-
21 opening of fishing grounds following an oil
22 spill, which guidance shall include model
23 protocols and standards for the closing and
24 reopening of fishing areas.”.

1 (b) REQUIREMENT THAT AREA CONTINGENCY
 2 PLANS CONTAIN AREA-SPECIFIC PROTOCOLS AND
 3 STANDARDS.—

4 (1) COOPERATION WITH STATE AND LOCAL OF-
 5 FICIALS.—Section 311(j)(4)(B)(ii) of the Federal
 6 Water Pollution Control Act (33 U.S.C.
 7 1321(j)(4)(B)(ii)) is amended by inserting after
 8 “wildlife” the following: “, including advance plan-
 9 ning with respect to the closing and reopening of
 10 fishing grounds following an oil spill”.

11 (2) FRAMEWORK.—Section 311(j)(4)(C) of the
 12 Federal Water Pollution Control Act (33 U.S.C.
 13 1321(j)(4)(C)) is amended—

14 (A) by redesignating clauses (vii) and (viii)
 15 as clauses (ix) and (x), respectively; and

16 (B) by inserting after clause (vi) the fol-
 17 lowing:

18 “(vii) develop a framework for advanced
 19 planning and decisionmaking with respect to
 20 the closing and reopening of fishing grounds
 21 following an oil spill, including protocols and
 22 standards for the closing and reopening of fish-
 23 ing areas;”.

1 **SEC. 203. QUALIFICATION OF MAJOR OIL SPILLS AS MAJOR**
2 **DISASTERS.**

3 (a) ADDITION OF MAJOR OIL SPILLS TO LIST OF
4 DISASTERS QUALIFYING FOR NATIONAL DISASTER AS-
5 SISTANCE.—Section 102(2) of the Robert T. Stafford Dis-
6 aster Relief and Emergency Assistance Act (42 U.S.C.
7 5122(2)) is amended by inserting “major oil spill” after
8 “flood,”.

9 (b) SUBROGATION OF MONEYS PAID UNDER DES-
10 IGNATION OF MAJOR OIL SPILL AS MAJOR DISASTER.—
11 Section 1015 of the Oil Pollution Act of 1990 (33 U.S.C.
12 2715) (as amended by section 201(d)(2)) is amended by
13 adding at the end the following:

14 “(d) SUBROGATION OF MONEYS PAID UNDER DES-
15 IGNATION OF OIL SPILL AS MAJOR DISASTER.—The
16 United States shall acquire by subrogation the right to
17 seek from the responsible party, its guarantor, or the
18 Fund any moneys paid by the United States under section
19 102(2) of the Robert T. Stafford Disaster Relief and
20 Emergency Assistance Act (42 U.S.C. 5122(2)) to provide
21 short-term financial assistance that has the effect of miti-
22 gating damages to which the recipient would be entitled
23 under this Act.”.

1 **SEC. 204. ACCESS TO OIL SPILL LIABILITY TRUST FUND**
 2 **FOR NATURAL RESOURCE DAMAGES.**

3 Section 6002 of the Oil Pollution Act of 1990 (33
 4 U.S.C. 2752) is amended by striking subsection (b) and
 5 inserting the following:

6 “(b) EXCEPTIONS.—

7 “(1) IN GENERAL.—Subsection (a) shall not
 8 apply to—

9 “(A) section 1006(f), 1012(a) (2) or (4),
 10 or 5006(b); or

11 “(b) an amount not exceeding \$50,000,000
 12 for any fiscal year that the President may make
 13 available from the Fund to—

14 “(i) carry out section 311(c) of the
 15 Federal Water Pollution Control Act (33
 16 U.S.C. 1321(c));

17 “(ii) conduct the assessment of natu-
 18 ral resource damages required under sec-
 19 tion 1006;

20 “(iii) develop restoration plans; and

21 “(iv) implement the initial phases of
 22 restoration plans.

23 “(2) AVAILABILITY.—Amounts to which this
 24 subsection applies shall remain available until ex-
 25 pended.”.

1 **SEC. 205. ACCESS TO NECESSARY INFORMATION, EXPER-**
 2 **TISE, AND FUNDING TO MITIGATE NEAR-**
 3 **TERM ECOLOGICAL INJURY RESULTING**
 4 **FROM OIL SPILL.**

5 (a) ACCESS TO FUNDS TO MITIGATE NEAR-TERM
 6 INJURY.—Section 1012(a) of the Oil Pollution Act of
 7 1990 (33 U.S.C. 2712(a)) is amended—

8 (1) in paragraph (5) by striking the period at
 9 the end of paragraph (5) and inserting “; and”; and

10 (2) by adding at the end the following:

11 “(6) the payment of costs to mitigate ecological
 12 injury (including the immediate costs of manage-
 13 ment, a level and of a type that are needed to miti-
 14 gate ecological injury, as determined solely by the
 15 Federal On-Scene Coordinator).

16 (b) ACCESS TO SCIENTISTS WITH RELEVANT EX-
 17 PERTISE.—

18 (1) IDENTIFYING SCIENTISTS IN AREA CONTIN-
 19 GENCY PLANS.—Section 311(j)(4)(C) of the Federal
 20 Water Pollution Control Act (as amended by section
 21 202(b)(2)) is amended—

22 (A) by redesignating clauses (ix) and (x)
 23 as clauses (x) and (xi), respectively; and

24 (B) by inserting after clause (vii) the fol-
 25 lowing:

“(viii) compile a list of local scientists, both inside and outside Federal Government service, with expertise in the environmental effects of spills of the types of oil typically transported in the area, who may be contacted to provide information or participate in the scientific support team convened in response to a spill;”.

(c) ESTABLISHMENT OF SCIENTIFIC SUPPORT TEAM.—Section 4202(b) of the Oil Pollution Act of 1990 (33 U.S.C. 1321 note) is amended by adding at the end the following:

“(5) SCIENTIFIC SUPPORT TEAM.—

“(A) ESTABLISHMENT.—Not later than 6 months after the date of enactment of this paragraph, the Secretary shall establish a process under which a scientific support team shall be convened immediately in response to each oil spill covered by this Act.

“(B) PURPOSE.—The purpose of the scientific support team shall be to provide useful or necessary scientific information and support to the response team and to recommend any measures that will serve to mitigate ecological injury immediately following such a spill.

1 “(C) PARTICIPATION BY SCIENTISTS WITH
 2 EXPERTISE.—The process under subparagraph
 3 (A) shall provide for consideration for participa-
 4 tion on a scientific support team to be given to
 5 scientists identified in the area contingency plan
 6 with expertise in the environmental effects of
 7 the kind of oil that has been spilled or that has
 8 actually or potentially affected natural re-
 9 sources.

10 “(D) OPERATIONS OPEN TO THE PUB-
 11 LIC.—To the extent it does not interfere with
 12 its expeditious operation, the operations of a
 13 scientific team shall be open to the public.”.

14 (d) ACCESS TO USEFUL AND NECESSARY INFORMA-
 15 TION.—

16 (1) ESTABLISHMENT OF INFORMATION CLEAR-
 17 INGHOUSE.—Section 7001(a) the Oil Pollution Act
 18 of 1990 (33 U.S.C. 2761(a)) is amended—

19 (A) by striking “may designate” at the end
 20 of paragraph (3) and all that follows through
 21 “representative” and inserting “may designate.
 22 A representative”; and

23 (B) by adding at the end the following:

24 “(4) DISSEMINATION OF INFORMATION.—The
 25 Interagency Committee shall disseminate and com-

1 pile information regarding previous spills, including
 2 data from universities, research institutions, State
 3 governments, and other nations, as appropriate.”.

4 (2) REQUIREMENT THAT NATIONAL RESPONSE
 5 UNITS MAINTAIN INFORMATION ON ENVIRONMENTAL
 6 EFFECTS OF OIL SPILLS.—Section 311(j)(2) of the
 7 Federal Water Pollution Control Act (33 U.S.C.
 8 1321(j)(2)) is amended—

9 (A) by redesignating subparagraphs (F)
 10 and (G) as subparagraphs (G) and (H), respec-
 11 tively; and

12 (B) by inserting the following after sub-
 13 paragraph (E):

14 “(F) shall maintain and update a body of
 15 information on the environmental effects of var-
 16 ious types of oil spills and how best to mitigate
 17 those effects, which shall be kept in a form that
 18 is readily transmittable to response teams re-
 19 sponding to a spill under this Act;”.

20 **SEC. 206. COMPLIANCE WITH RESPONSE PLANS.**

21 Section 311(c)(3)(B) of the Federal Water Pollution
 22 Control Act (33 U.S.C. 1321(c)(3)(B)) is amended by
 23 striking “or as directed by the President” and inserting
 24 “unless the President or the on-scene coordinator deter-
 25 mines that deviation from the plan would provide for a

- 1 more expeditious or effective response to the spill or miti-
- 2 gation of its environmental effects.”.

